

August 4, 1993

Joseph Flaherty
President
Utility Workers Union of America
Local 1-2
Suite 401
386 Park Avenue, South
New York, NY 10016-8846

Dear Mr. Flaherty:

This is in response to your correspondence of May 14, 1993, requesting that this office provide the Utility Workers Union of America (UWUA) Local 1-2, with data on whether subcontractors being utilized by Consolidated Edison Company (Con Ed) of New York are being drug tested in accordance with 49 CFR Part 199.

Your correspondence indicates the UWUA has reason to believe that subcontractors working for Con Ed may not be in compliance with Part 199. A UWUA representative contacted the company last year requesting information about the subcontractors compliance with the drug testing regulations. The company has denied the union's request and has failed to provide any of the requested information.

You also indicated that this issue is of particular concern to the union since its members work on pipelines with subcontractors and insist that the company provide employees with a safe work environment. The union is also interested in promoting a drug free work place.

The regulations, as set forth in Part 199, do not require that an operator provide any type of documentation to an organization such as the UWUA. However, pipeline operators are responsible for ensuring that their contractors' are in compliance with the drug testing regulations. Pipeline operators must require that their contractors allow the pipeline operator, the Administrator of the Research and Special Programs Administration (RSPA) (or designee), and if the pipeline operator is subject to the jurisdiction of a state agency, a representative of the state agency, access to contractor property and records. This is the mechanism through which contractor performance is evaluated.

Con Ed is an intrastate pipeline operator, subject to New York State jurisdiction with respect to alleged violations of the drug testing regulations, through agreement with RSPA's Office of Pipeline Safety (OPS). Included in New York's agreement with OPS, is a requirement that New York adopt the drug testing regulations at Part 199.

If you feel that potential violations of the drug testing regulations exist, then these concerns should be expressed either by phone (518) 486-2648 or addressed to John E. Gawronski, Chief, Gas and Petroleum Safety Investigation Section, New York Public Service Commission, #3 Empire State Plaza, Albany, NY 12223.

Thank you for your inquiry. Please let me know if you need additional information about our drug testing requirements.

Sincerely,

Richard L. Rippert
Drug Compliance Coordinator
Office of Pipeline Safety
Compliance